

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION**

<b>IN RE:</b>	)	<b>CASE NO. 11-81005</b>
	)	
<b>NATHAN EDWARD KEITH</b>	)	<b>Chapter 13</b>
<b>ROSALYN EVETTE KEITH</b>	)	
	)	
<b>SSN: XXX-XX-9200</b>	)	
<b>SSN: XXX-XX-4687</b>	)	
	)	
<b>DEBTORS.</b>	)	
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**OBJECTION TO CONFIRMATION AND VALUATION**

**NOW COMES**, Vericrest Financial, Inc. ("Vericrest"), by and through its undersigned attorney, and objects to confirmation of the Debtors' proposed Chapter 13 Plan and valuation ("the Plan"). In support thereof, Vericrest shows unto the Court the following:

1. On or about May 25, 2006, Debtors, Nathan and Rosalyn Keith executed a Promissory Note ("Note") in the original principal amount of \$21,000.00, secured by a second Deed of Trust on Debtors' primary residence located at 19 Meadowcrest Drive, Durham, North Carolina (the "Subject Property") and more particularly described in a Deed of Trust recorded in Book 5227 at Page 996 in the Durham County Register of Deeds, North Carolina.
2. On or about June 22, 2011, the Debtors filed a Petition with the United States Bankruptcy Court for the Middle District of North Carolina for relief under Chapter 13 of the United States Bankruptcy Code. Schedule A of the Debtors' Petition lists the value of the Subject Property as \$110,000.00, but does not indicate the source of such valuation.
3. On or about August 25, 2011, Vericrest filed a Proof of Claim listing a total indebtedness claim of \$21,704.40 and an arrearage claim of \$1,225.54. A true and correct copy of the Proof of Claim is attached hereto and incorporated herein by reference as Exhibit "A."
4. Pursuant to Debtors' schedules, Ocwen Loan Servicing, LLC ("Ocwen") holds the first Deed of Trust on the Subject Property. On or about July 18, 2011, Ocwen filed a Proof of Claim listing a total debt claim of approximately \$117,803.73. See, Court Claim No. 10.

5. Debtor's Proposed Plan references Debtor's intent to value the collateral at value stated in the amount of \$110,000.00 and the remainder of the value to be treated as a general unsecured claim.
6. Upon information and belief, Vericrest alleges and says that the Subject Property is the Debtors' principal residence and that Vericrest's claim is secured only by a security interest in the Debtors' principal residence.
7. Vericrest is further informed and therefore alleges and says that according to the Durham County Tax Office, the current tax value on the Subject Property is approximately \$138,269.00. A true and correct copy of the Appraisal Card is attached hereto and incorporated herein by reference as Exhibit "B."
8. Vericrest objects to its treatment under the Proposed Plan and confirmation of the Proposed Plan in the Debtors' Chapter 13 case based on the fact that the plan attempts to modify the rights of a secured claim that is secured only by a security interest in real property that is the Debtors' principal residence in violation of 11 U.S.C. § 1322(b)(2).

**WHEREFORE**, Vericrest Financial, Inc. respectfully requests the Court as follows:

1. That confirmation of the plan in the Debtors' Chapter 13 case be denied; or in the alternative
2. That the value of the Subject Property be determined at a final hearing in this matter;
3. That Vericrest's Deed of Trust be treated as fully secured, and be paid as a long term continuing debt through the Debtors' Plan;
4. That Vericrest be awarded reasonable attorneys fees incurred in the filing of this Objection; and
5. For such other and further relief as the court deems proper.

This, the 29<sup>th</sup> day of September 2011.

THE LAW FIRM OF HUTCHENS, SENTER & BRITTON, P.A.

BY: /s/: Joseph J. Vonnegut

JOSEPH J. VONNEGUT

Attorney for Vericrest Financial, Inc.

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State Bar No. 32974

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date this OBJECTION TO CONFIRMATION AND VALUATION was served upon the following parties by depositing a copy enclosed in a postpaid, properly addressed wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service or via the appropriate electronic server.

Debtors:

Nathan Edward Keith  
Rosalyn Evette Keith  
19 Meadowcrest Drive  
Durham, NC 27703

Debtors' Attorney:

John T. Orcutt  
6616-203 Six Forks Rd.  
Raleigh, NC 27615

Chapter 13 Trustee:

Richard M. Hutson, II  
Durham Chapter 13 Office  
302 East Pettigrew St., Suite B-140  
P. O. Box 3613  
Durham, NC 27702

This, the 29<sup>th</sup> day of September 2011.

THE LAW FIRM OF HUTCHENS, SENTER & BRITTON, P.A.

BY: /s/: Joseph J. Vonnegut

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